IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.8184 OF 2005

Nitin Krushnarao Pandit
@ Akash Keshav Joshi ...Applicant.

Versus

The State of Maharashtra ...Respondent.

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Mr.R.R.Mahagaonkar, Advocate for the applicant (appointed).
MR.A.S.Gadkari, APP, for the State.

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CORAM : SMT.V.K.TAHILRAMANI,J.

DATED : APRIL 13, 2006.

P.C.:

. Heard learned Advocate for the applicant and learned APP for the State.

2. The applicant has been convicted in Regular Criminal Case No.25 of 2004. The J.M.F.C., Pali by order dated 16.04.2005 convicted the applicant under Sections 454 and 380 of IPC and sentenced to suffer S.I. for one and half years and fine of Rs.100/-, in default S.I. for eight days.

3. In the second case i.e.Regular Criminal Case No.113 of 2004, the applicant has been convicted under Section 420 and 380 of IPC by the J.M.F.C. Chiploon and has been convicted for R.I. for two years each and pay fine of Rs.500/- for each, in default R.I. for one month each.

4. Now, the applicant has prayed that the sentences in both these cases be directed to run concurrently.

4. The Supreme Court in the case of **Mohd. A. Hussain Vs. Asstt.Collector, Customs (Prevention) Ahmedabad** reported in **A.I.R. 1988 S.C. 2143** has observed as follows :

> "The basic rule of thumb over the years has been the so called single transaction rule on concurrent sentences. If a given transaction constitutes two offences under two enactments generally, it is wrong to have consecutive sentences. It is proper and legitimate to have concurrent sentences. But this rule has no application if the transaction relating to offences is not the same or the facts constituting the two offences are quite different." (emphasis supplied).

. The later principle will govern the case on hand. In other words, as both the offences committed by the applicant were independent and not arising from one transaction as such, the applicant ought to suffer consecutive sentences.

5. Looking to the facts of the case, the prayer of the applicant cannot be considered. Hence, the application is rejected.

(SMT.V.K.TAHILRAMANI,J.)